

MIED ProSe 14 (Rev 5/16) Complaint for Violation of Civil Rights (Prisoner Complaint)

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

Darius Davion Rush

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

v.

Department of Treasury.
(Internal Revenue Service)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Case:2:25-cv-10567

Judge: DeClercq, Susan K.

MJ: Morris, Patricia T.

Filed: 02-28-2025 At 12:05 PM

PRIS DARIUS RUSH V DEPARTMENT OF TR
EASURY (LG)

(to be filled in by the Clerk's Office)

Jury Trial: ☒ Yes ☐ No
(check one)

**Complaint for Violation of Civil Rights
(Prisoner Complaint)**

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in *forma pauperis*.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Darius Davion Rush

All other names by which you have been known:

ID Number

809599

Current Institution

Chippewa Correctional Facility

Address

4269 West M-80Winchester Michigan 49784**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Department of TreasuryJob or Title
(if known)Internal Revenue Service

Shield Number

Employer

Address

☐ Individual capacity☒ Official capacity

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Defendant No. 2

Name _____
Job or Title _____
(if known)
Shield Number _____
Employer _____
Address _____

☐ Individual capacity☐ Official capacity

Defendant No. 3

Name _____
Job or Title _____
(if known)
Shield Number _____
Employer _____
Address _____

☐ Individual capacity☐ Official capacity

Defendant No. 4

Name _____
Job or Title _____
(if known)
Shield Number _____
Employer _____
Address _____

☐ Individual capacity☐ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (*check all that apply*):

- ☒ Federal officials (a *Bivens* claim)
☐ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

1. My Eighth Amendment Against Cruel and Unusual Punishment.

2. My Fourteenth Amendment ~~Against~~ For denial of my due Process.

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

The Department of Treasury Internal Revenue Service has Continued to Violate my eighth and Fourteenth Amendment by Failing to Issue/Provide Me my Economic Impact Payment 1 in the amount of \$1,200.00. After I have shown/Provided the Department of Treasury with Information/Proof that I was a victim of identity theft and never received Economic Impact Payment 1 in the amount of \$1,200.00 As required by Law.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (*explain*) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

MIED ProSe 14 (Rev 5/16) Complaint for Violation of Civil Rights (Prisoner Complaint)

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

The department of Treasury wrote via letter explaining that it deposited my \$1,200.00 economic impact payment into a Bank in the State of Ohio.

I am a Michigan Prisoner.

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.
- _____

- C. What date and approximate time did the events giving rise to your claim(s) occur?

November of 2020.

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

Since January 14 2012 I have been incarcerated within the Michigan Department of Corrections. On or around March of 2020 Congress Passed the Coronavirus Aid Relief and Economic Security Act. Also known as the Economic Impact Payment. The Payment was For up to \$1,200.00.

To Receive that Payment Michigan Prisoners were required to Complete a 1040 Form. On or around ~~October~~ April of 2020. I did in Fact Complete the 1040 Form and Sent it to the Department of Treasury For Processing but Never received Economic Impact Payment 1 in the amount of \$1,200.00.

On or around the Year of 2021 and 2022 Congress then Passed Economic Impact Payment 2 and 3 in the Amount of \$600.00 and \$1,400.00. I Again Completed the required 1040 Form and Sent it to the Department of Treasury and received both those Payments in my Prisoner account.

Since the Year of 2020 I have via letters wrote to the Department of Treasury asking about the status and why I still have not received Economic Impact Payment 1. The Department of Treasury wrote me informing me that they Sent my Economic Impact Payment to a bank in Ohio. I then replied to that

Additional Case (Statement of Facts Underlying Claim)

Letter ~~From~~ From the Department of Treasort and Sent them a Proof of incarceration showing that i have been incarcerated Since the Year of 2012. that i Can only receive those Payments through MY Prison account and that i Was a victim of identify theft

The IRS Again Wrote me and informed me that i had to Complete a identify theft Form. I went to Prison official (Arus/PC) and requested the required identify ~~Form~~ theft Form. and was informed that the Prison does NOT Provide identify theft Forms ON the 1040 FORMS and Nothings else.

I Again Wrote to the IRS and advised them that the Michigan department of Corrections do NOT Provide the theft FORMS, and asked the IRS to Send/Provide me the Required identify theft Form. The IRS Again Wrote me and advised me to get the Form From the IRS website despite knowing that i am an incarcerated Prisoner and have no access to the internet.

I have done my due diligence and exhausted every Possible remedy I have given my Current incarceration to receive (EIP1) I have Continued to Write the IRS For over Four Years. I have Sent ~~multiple~~ Several Proof of incarceration, showing that I Never received Economic Impd Payment 1. The IRS has Continued to Write me advising me that they Sent LEIP1S to a bank in Ohio, despite the fact that i have Provide them

Additional Page #2 (Statement of Facts Underlying claim)

With evidence/Proof that i am a Michigan Prisoner who has been incarcerated since the year of 2012 and is no possible way I can open a bank account in the state of Ohio but to no avail.

The Department of Treasury has subjected me to mental, emotional, and Financial hardship. they have violated my due process under the Fourteenth amendment and my eighth amendment against Cruel and Unusual Punishment. When I have provided them with clear and Convincing evidence that i never received economic impact Payment in the amount of \$1,200.00, as required by law.

End.

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

1. Order the Department of Treasury to Provide me economic impact Payment #1 in the amount of \$1,200.00 to my Prisoner account as I Never received that Payment Required by law.
2. From November of 2020 when the IRS erred when it Sent my (EIP1) to a bank in Ohio. Fil January of 2025 Order the Department of Treasury to Pay Punitive damages in the amount of \$25.00 Per day For every day I have ~~been~~ Pursued and was deprived/denied economic impact Payment #1.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☐ Yes

☒ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☐ Yes

☐ No

☐ Do not know

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☐ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

E. If you did file a grievance:

1. Where did you file the grievance?

2. What did you claim in your grievance?

3. What was the result, if any?

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4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. *(Describe all efforts to appeal to the highest level of the grievance process.)*

—

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

—

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

—

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

—

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If so, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☒ Yes

☐ No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s)

Darius Rush

Defendant(s)

Department of Treasury

2. Court *(if federal court, name the district; if state court, name the county and State)*

United States District Court (Eastern District Michigan)

3. Docket or index number

2:24 cv 12169

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: January 31, 2025.

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification #

Prison Address

4269 West M-80
Winchelo
City

Michigan
State

49784
Zip Code

Darius Kish #809599
Chippewa Correctional Facility
4269 West M-80
Winchelo Michigan 49784



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